

The Honorable RONALD B. LEIGHTON

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA**

JENNY SHERIDAN, a married  
woman,

Plaintiff,

v.

DEPARTMENT OF CORRECTIONS,  
ELDON VAIL individually and in his  
official capacity acting under the color of  
state law; and ELEANOR D. VERNELL  
individually and in her official capacity  
acting under the color of state law,

Defendants.

NO. C10-5459RBL

ORDER GRANTING  
DEFENDANTS' MOTION TO  
DISMISS  
[Dkt. #15]

THIS MATTER is before the Court on the Defendants Mendoza and the State of Washington Department of Corrections' Motion to Dismiss Plaintiff's Amended Complaint [Dkt. # 15]. The Court's prior Order dismissed most of Plaintiff's original claims against all defendants other than Mendoza. [Dkt. #14]. Defendant argues that Plaintiff did not obtain (and

1 should not be granted) leave to amend her complaint. They argue that claims addressed in the  
2 Court's prior Order have been re-pleaded, and should be dismissed. Defendants also argue that  
3 plaintiff's new "public policy against bullying" claim is deficient as a matter of law, and  
4 permitting Plaintiff to amend her complaint to include it would be futile.  
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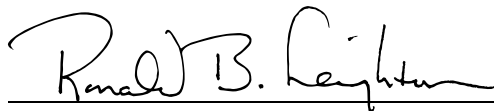
6 Plaintiff's Response [Dkt. #16] addresses only her "public policy against bullying"  
7 claim. That claim is based on Plaintiff's argument that RCW 28A.300.285 - "Harrassment,  
8 intimidation, and bullying prevention policies and procedures" - reflects an actionable public  
9 policy against bullying supporting her workplace "bullying" claim against Defendants.

10 The cited statute relates only to schools, and to the protection of students. It does not  
11 expressly or impliedly create a private cause of action for DOC employees to sue for  
12 workplace bullying. See *Bennett v. Hardy*, 113 Wash.2d 912, 920, 784 P.2d 1258 (1990)  
13 (outlining test for implying statutory private right of action).  
14

15 Plaintiff's Amended Complaint was not properly amended, and it fails to state a claim upon  
16 which relief may be granted under Fed. R. Civ. P. 12(b)(6). The Defendants' Motion to Dismiss is  
17 GRANTED and Plaintiff's Amended Complaint [Dkt. #11] is DISMISSED with prejudice.

18 IT IS SO ORDERED.

19 DONE this 3<sup>rd</sup> day of March 2011.  
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24 RONALD B. LEIGHTON  
25 UNITED STATES DISTRICT JUDGE  
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